

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/445,054	ROSEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rebecca Cook	1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communication of 9/14/2004.
2. ☒ The allowed claim(s) is/are 70-83, now 1-14.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date 10/10/01.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |                                                                                                                     |                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)                                                    | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                   |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>9/14/2004</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                                           |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                     |
|                                                                                                                     | 9. <input type="checkbox"/> Other _____.                                                                      |

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dr. Albert Chan on September 13, 2004.

The claims have been amended as follows:

In claim 74, page 17, line 5, delete "(Compound A)";

Line 6, at the end of the structure insert --;--;

Page 18, delete the entire structure on line 1, which precedes claim 75.

In claim 75, line 5, delete "the composition which" and insert --wherein said composition--.

In claim 76, line 6, delete " said composition capable of achieving" and insert --wherein said composition achieves--.

In claim 77, line 8, delete "or epithilone" and insert --epothilone A, epothilone B, desoxyepothilone A or desocyepothilone B--.

In claim 79, line 4, delete "or epithilones" and insert --epothilone A, epothilone B, desoxyepothilone A or desoxyepothilone B--.

In claim 80, line 3, delete "or epithilones" and insert --epothilone A, epothilone B, desoxyepothilone A or desoxyepothilone B--.

In claim 81, page 33, line 5, delete "(Compound A)";

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Line 6, at the end of the structure insert --;--;

Page 34, following "optical isomer thereof." delete the entire structure on line 10, which precedes claim 82.

In claim 82, line 4, delete "or epithilone" and insert –epothilone A, epothilone B, desoxyepothilone A or desoxyepothilone B--;

lines 4-5, delete "the composition which" and insert –wherein said composition--.

In claim 83, line 5, delete "or epithilone" and insert –epothilone A, epothilone B, desoxyepothilone A or desoxyepothilone B--;

lines 5-6, delete " said composition capable of achieving" and insert – wherein said composition achieves--.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance: The microtubule stabilizing agents in claims 77-83 have been expanded to include docetaxel, since both are taxoid drugs that prevent the mitotic spindle from being broken down by stabilizing the microtubule bundles.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Cook whose telephone number is (571) 272-0571. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, can be reached on (571) 272-0951.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Renee Jones (571) 272-0547 in Customer Service.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The official fax number is 703-872-9806

Rebecca Cook



Primary Examiner  
Art Unit 1614

September 14, 2004